

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

MARK ANTHONY THOMPSON,	:	Case No. 1:06-cv-59
	:	
Plaintiff,	:	Spiegel, J.
	:	Black, M.J.
vs.	:	
	:	
JUDGE BRETT SPENCER, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**REPORT AND RECOMMENDATION<sup>1</sup> THAT: (1) THE COMPLAINT BE  
DISMISSED WITHOUT PREJUDICE FOR FAILURE TO PROSECUTE; AND (2)  
THIS CASE BE CLOSED**

Plaintiff filed his complaint in this case on February 2, 2006, more than 120 days ago. The record, however, contains no indication that the named Defendants have waived service of process or that Plaintiff has served the named Defendants with a summons or with a copy of the complaint.

On June 7, 2006, the Court ordered Plaintiff to show cause on or before June 27, 2006 why this case should not be dismissed for lack of prosecution based on his failure to serve defendant with the summons and complaint. (*See* Doc. 4). Plaintiff has not responded to the Court's Order To Show Cause and has not filed any Motion, Memoranda, or other paper in this case since he filed his Complaint.

Although the Court prefers to adjudicate cases on their merits, Plaintiff has

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<sup>1</sup> Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

engaged in a clear pattern of delay by failing to respond to the Court's Order to Show Cause and by not prosecuting his case in any manner since filing his Complaint more than four months ago. Plaintiff's clear pattern of delay warrants dismissal of this case pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. *See Link v. Wabash R.R.*, 370 U.S. 626, 630-31 (1962); *Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991); *Hobson v. Department of Treasury*, No. 99-1274, 2000 WL 145170 (6th Cir. Feb. 1, 2000).

**IT IS THEREFORE RECOMMENDED THAT** Plaintiff's complaint (Doc. 1) be **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b), and that this case be **CLOSED**.

Date: 7/6/06

s/Timothy S. Black  
Timothy S. Black  
United States Magistrate Judge

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**NOTICE**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report and Recommendation within **TEN DAYS** after being served with a copy thereof. That period may be extended by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the Report and Recommendation objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to an opponent's objections within **TEN DAYS** after being served with a copy those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn* 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).